

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Cooperation Department – Smt P.Anitha, Cashier (U/S) of Society of Bhagyanagar farmers Service Co-operative Society Ltd., Hyderabad- Appeal filed under section 131 of APCS Act 1964 – Reinstated in to service – Orders –Issued.

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AGRICULTURE & COOPERATION (COOP.V) DEPARTMENT

**G.O.Rt.No. 886**

**Dated. 03-07-2010**

**Read the following:**

1. Representation of Smt P. Anita, staff of the society of Bhagyanagar Farmers Service Cooperative Society Minister for Coop. with Endt.No.17/ M (Coop)/07, dated 18-01-2007.
2. Govt., Memo.No.1003/Coop.V/2007-1, dated.08-02-2007
3. From Commissioner for Cooperation and Registrar of Cooperative Societies, A.P.,Lr.Rc.No.35374/2 005.PACS/ V&VI, dated.16-08-2010.
4. From Commissioner for Cooperation and Registrar of Cooperative Societies, A.P., Lr.Rc.No.35374/2 005.Pc3, dated.09-04-2010.

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**ORDER:**

In the reference 1<sup>st</sup> read above, Smt.P.Anitha, cashier has stated that she is working as clerk in the Bhagyanagar FSCS Ltd., since 01-12-1992. During the year 2004 a fire accident took place in the society and some records of the society have been burnt and destroyed. There was audit followed by statutory inspection as the management of the society suspected something fishy in the fire accident. The statutory inspecting officer gave report after one and half years finding over drawals from seven SB A/cs to extent of Rs.38.17 Lakhs and she had been kept under suspension since 02-09-2005 and a domestic inquiry was also got conducted on the basis of the perfunctory statutory inspection report which is now stayed. Further she has requested for setting aside the perfunctory statutory inspection report and directing initiating of fresh inquiry by a competent officer and not by officers like Mr.SK.Rafi Ahmed, Assistant Registrar of Cooperative Societies, who gave this perfunctory statutory inspection report, and Stay orders were issued against the Statutory Inspection of Bhagyanagar Farmers Service Cooperative Society Limited Hyderabad in the reference 2<sup>nd</sup> read above.

2. In the reference 3<sup>rd</sup> read above, the CC&RCS, Hyderabad, while enclosing a (1) Inspection report (2) Domestic enquiry report (3) Charge sheet along with enclosures has stated that the D.C.O., Ranga Reddy through his Lr.Rc.No.5551/2005 C, dated.29.03.2007, has informed that on the request of the Divisional Cooperative Officer, Hyderabad East Division Rangareddy District, an Inspection under Section 52 of the APCS Act, 1964 was ordered with Special reference to the irregularities noticed in the SB Accounts and Term Deposit Accounts of FSCS Bhagynagar Ltd.,Hyderabad authorizing Sri SK.Rafi Ahmad, Assistant Registrar to conduct the inspection and the Inspecting Officer has submitted his report vide Lr.Dated.30-07-2005 to the District Cooperative Officer, Ranga Reddy. The Statutory Inspecting Officer detected irregularity that a huge amount of Rs.38,17,600/- was misappropriated by Sri V. Vishweshwar Rao Manager, Smt.P.Anitha and Sri I.Sriramamurthy, Cashiers of the Society. As per the findings of the Inspecting Officer Sri V.Vishweshwar Rao, Manager and Smt.Anitha, Cashier are jointly responsible for misappropriation of Rs.22,72,480/- and Sri V.Vishweshwar Rao, Manager and Sri I. Sreerama Murthy, Cashier are jointly responsible for misappropriating Rs.15,45,120/-. Thus a total of

Rs.38,17,600/- is misappropriated in the Society. Further, Inspection was completed and follow up action was also initiated by the society suspending the (PTO)

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all the delinquents including petitioner Smt.P.Anitha. The CC&RCS, Hyderabad has also informed that neither the Government nor the Commissioner for Cooperation and Registrar of Cooperative Societies have any powers to interfere with the disciplinary action initiated by the Society. However as surcharge enquiry U/S 60 is yet to be commenced by the departmental officer, the petitioner's grievances can be referred to the surcharging officer for thorough scrutiny before passing the orders and the case was come up for hearing.

3. In the reference 4<sup>th</sup> read above, the Commissioner for Cooperation and Registrar of Cooperative Societies, A.P., Hyderabad, has observed and stated that the Inspection Officer in a the inspection report has reported that Sri Visweswar Rao, Manager (U/S) in his deposition had accepted that he had prepared and passed fictitious vouchers in the 7 overdrawn accounts. Cashiers have admitted that they have paid the cash to the Manager but he denied of receiving the cash in the absence of recorded evidences which were purported to have been destroyed, the Inspection Officer fixed responsibility on the Manager and 2 Cashiers who were involved in the transactions. Regarding inconsistencies in the total misappropriated amount it is found that as per Audit Report it is Rs.30,37,865/- where as the Inspection Officer arrived at an amount of Rs.38,17,600/- The Society has reported that Audit for the years 2000 to 2003 was conducted by M/s Sirish and Naresh Chartered Accountants and arrived the loss pertaining to that period as Rs.30,37,865/- The Society has filed criminal complaint basing on the Audit Report. The Inspection officer has verified the records from 1996-97 to 30-06-2004 and reported loss occurred from 1996-97 to 30-06-2004 is Rs.38,17,600/- It is pertinent to mention that the domestic enquiry officer had to confine to the charges framed without reference to the amount of liability to be fixed against those, who functioned as cashiers. He opined that the officer of that department of Cooperation, who examines and decides the matter U/S 60 of the APCS ACT 1964, shall decide the liability to be fixed against the cashiers, Therefore, any disparity in the total amount of misappropriation and the amount of liability fixed against the petitioner will be decided by the surcharging Authority, the Section 52 Inspection Report was submitted on 30-07-2005 by the Inspecting Officer. The Divisional Cooperative Officer, Hyderabad (East) has issued directions under Section 59 of the Act on 25-08-2005 to place Smt. P. Anitha and Sri L. Sri Rama Murthy Cashier under Suspension and the society has placed them under suspension on 02-09-2005. Further the Divisional Cooperative Officer, Hyderabad (East) has instructed the society on 20-08-2005 to place the report before the General Body and report was placed before the G.B. on 21-09-2005. The Society has appointed Domestic Enquiry Officer against the suspended employees on 31-12-2005. After receipt of the Domestic Enquiry Report, show cause Notice was issued to the petitioner, Smt. P.Anitha on 08-12-2006 in reply to the letter dated.18.12-2006 of Smt P.Anitha the society has enclosed a copy of Service Conditions and instructed to submit her explanation on or before 8-01-2007. The Petitioner approached the Govt., and the Govt., have imposed stay on the Inspection. But by that time the Inspection Report had already been submitted by the inspecting Officer on 30-07-2005 as already submitted above. No further action was taken by the Department on Inspection report due to the stay imposed by the Govt., Soon after vacation of stay action will be taken on all concerned who are found responsible. In respect of discrepancies in the misappropriated amount, it is sub mitted that surcharging authority has to conduct an independent enquiry before fixing the responsibility on each employee and requested to communicate appropriate orders for pursuing further action against the responsible persons.

4. The Inspecting Officer has submitted his report on 30-07-2005 observed that huge amount of Rs.38, 17,600/- was misappropriated by Sri V.Vishweshwar Rao, Manager, Smt P.Aniatha, Cashier and Sri I. Sri Ram Murthy, Cashier of the society and fixed responsibility against them for recovery of the amount jointly

and severally. They were placed under suspension immediately. Domestic enquiry was also conducted in this case. On receipt of the domestic enquiry (Contd...3)

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report the society has issued show cause notice to Smt P.Aniatha, Cashier vide SCN, dated 8-12-2006. She filed representation before the Government seeking direction to the cooperative authorities to conduct re-enquiry in the matter and Government have issued stay on further follow up action on the Inspection report in Govt., Memo dated.8-2-2007. The case come up for final hearing on 02-11-2009. The official respondents and the petitioner Smt P.Anitha appeared for hearing and she submitted a detailed representation. Smt P.Anitha while explaining several inconsistencies in the findings of the inspection report, has requested to drop further action by reinstating her into service, treating her as not responsible for the embezzlement of society funds. The society has filed W.P.No.1598 of 2009 before the Hon'ble High Court of A.P. requesting to direct the respondents to expedite the hearing on the representation filed by Smt P.Anitha and vacate the stay covered by Govt., Memo dated.08-02-2007. The Hon'ble High Court on 03-02-2009 passed interim direction as prayed by the petitioner. The appeal filed by Smt Anitha under Sec.131 of the Act has been examined in detail in the light of the Inspection Report and Domestic enquiry report conducted in this case.

5. It is observed from the records that the misappropriation of society funds started in the year 1996 and continued up to June 2004. Five Managing Directors were worked during that period. As per the society byelaw No.27(a) the Managing Director is responsible for executive administration (b) He shall exercise general control & supervision over the work of its officers and staff (c). He is responsible for general conduct supervision and management of the day today business and affairs of the society (d) to receive all moneys and securities on behalf of the society and to make arrangements for the proper maintenance and custody of cash balance and other properties of the society. All the five M.Ds who worked during the said period allowed the Manager to perform the above duties instead of themselves. The failure of performing the above duties by MD leads to the misappropriation.

6. It is surprising to note that instead of taking action against the said 5 MDs for violation of the above byelaws and also said to be passed the withdrawal vouchers in question were let off without any action by the Department of Cooperation as well as the Bank of India.

7. It is also observed from the inspection report and the report of the society that the Inspecting officer has reported among others, that on verification of S.B.A/C No.497 & 446 that all the credit entries are appearing to be made falsely by Mr.V.Visweswara Rao, Manager will fully and also initiated authenticating these entries. He also allowed withdrawals, there by creating a over draft in the account actually where there are no sufficient funds in the account. Hence Sri V.Visweswara Rao is responsible for the said amount from the deposition of the account holder Sri K. Ram Reddy, and the acceptance of his responsibility by Sri V.Visweswara Rao in written & passing of factitious with drawls and the depositions given by the cashiers indicates, that Sri K.Ram Reddy has close liaison with Mr.V.Visweswra Rao the excess drawals are permitted by Manager Knowingly from the account for which he has no authority. This has resulted for the loss of society funds in SB A/c No.497 by fraudulent means.

8. In the same way the society got loss in SB A/c No.446, by Sri V. Visweswara Rao this is a clear act of misappropriation, which is mainly attributable to the Manager Sri V.Visweswara Rao. This is the modus operandi for with drawal of funds by fraudulent means in other six accounts also.

9. As regards to excess credit deposit entry, it is not a over sight, Sri V.Visweswara Rao posted the entry under his initials willfully, again withdrawals

were allowed and passed by him, Hence, he is fully responsible for this misappropriated amount.

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10. As regards as reduced balances in the SB accounts, the manager accepted that the jottings were done by him for the years 2003 & 2004 and stated that he has taken the ledger balances as it is which were prepared by others. It is clear that the reduced balances for Rs.28,66,000/- prepared by him in balancing book knowingly to cover up the excess drawals of society funds to that extent, which were drawn from the selected other SB accounts like SB A/c.470,746,446,539,563,505,497 where there are no credits. He also admitted in his deposition that the excess drawal vouchers were written & passed by him. It is clearly understood that the misappropriation was mainly done by Sri V.Visweswara Rao and he is responsible for the temperament of SB balances for his illegal purposes.

11. Further the MDs, who worked from 1996 to 2004, have never examined the SB accounts in their tenure. No action was taken to conduct annual review of Bank accounts. Financing Bank has also not availed the option of conducting inspection, even through there is provision in the Act for inspection. No General body meeting was conducted after 1998. The Manager Sri V.Visweswara Rao in his deposition has accepted that he has prepared and passed the fictitious vouchers in the said seven overdrawn accounts.

12. From the above, it is crystal clear that Sri V.Visweswara Rao, Manger ( U/S) is solely responsible for the misappropriation of society funds. It may not be appropriate to target the petitioner for the misdeeds/ misappropriation of funds committed by the manger (U/s).

13. Hence, under the powers vested U/s 131 of the APCS Act 1964, Smt. P.Anitha be exonerated from the charges framed against her, as she is not found guilty of the charges framed against her, duly reinstating her into service and the stay orders issued in Govt., Memo second read above are vacated.

14. The Commissioner for Cooperation & Registrar of Cooperative Societies, A.P. Hyderabad is directed to take necessary action accordingly.

( BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH )

K. R. KISHORE  
PRINICIPAL SECRETARY TO GOVT.

To  
The Commissioner for Cooperation and  
Registrar of Cooperative Societies,  
A.P., Hyderabad,

Copy to:

1. The Individual  
( “ through “ the Commissioner for Cooperation and  
Registrar of Cooperative Societies, A.P., Hyderabad.)
2. The PS to Minister for Coop.
3. The PS to the Prl.Secy (Coop &AM)

// Forwarded :: By Order //

Section Officer